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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re F.F.,
on Habeas Corpus.

A141763

(Superior Ct. of the City & County of
San Francisco No. JW 13-6182)

BY THE COURT¹:

Petitioner filed a petition for writ of habeas corpus arguing that the trial court improperly found him in violation of probation. We asked for and received informal opposition and reply. In the informal opposition, the Attorney General concedes error and asks that we vacate the offending order. Additionally, the parties have waived issuance of an order to show cause, the filing of a return and traverse, and oral argument and stipulates to the immediate issuance of the remittitur. (Cal. Rules of Court, rules 8.272(c), 8.490.)

The concession by the Attorney General is appropriate. Welfare and Institutions Code section 777² provides that “an order changing or modifying a previous order . . . shall be made only after a noticed hearing.” In this case, without prior notice, the trial court changed its prior order of probation when it found petitioner in violation of

¹ Before Kline, P.J., Richman, J., and Brick, J.*

*Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

² All further statutory references are to the Welfare and Institutions Code.

probation and removed him from his home. This was contrary to the plain dictates of section 777. Given that the proper procedure was not followed, the petition for writ of habeas corpus is granted and the probation violation is hereby vacated.

The clerk of the court is instructed to issue the remittitur forthwith.